

## REMARKS

Upon entry of the present paper, claims 35-43 will have been amended to clarify the recitations thereof. No claims will have been canceled and no additional claims will have been submitted for the Examiner's consideration. Accordingly, claims 35-51 will remain pending in the present application with claims 44-51 having been previously withdrawn from consideration in the present application as a result of an election made in response to a restriction requirement set forth in the official action of July 9, 2010.

In view of the herein contained amendments and remarks, Applicant respectfully requests reconsideration and withdrawal of each of the objections and rejections set forth in the above-mentioned official action together with an indication of the allowability of all of the claims pending herein. Such action is now believed to be appropriate and proper and is thus respectfully requested, in due course.

Initially, Applicant notes with appreciation the Examiner's explicit indication that the materials contained in the Information Disclosure Statement filed in the present application on March 24, 2005 [sic] (2006) have been considered, and the Examiner's return of an appropriately annotated copy of the PTO 1449 form that was attached to the above noted Information Disclosure Statement.

In the outstanding official action, the Examiner addressed Applicant's election of claims 35-43. In particular, the Examiner acknowledged Applicant's traverse, but maintained the propriety of the restriction requirement based on the reasons set forth in the official action of July 9, 2010. Based on the above, the Examiner withdrew claims 44-51 from further consideration in the present application.

At least for the reasons set forth in the response filed on August 9, 2000, Applicant respectfully submits that the above noted restriction requirement is inappropriate, should be withdrawn, and an action on the merits of all of the pending claims be issued, in due course.

In the outstanding official action, the Examiner objected to the specification as failing to provide a proper antecedent basis for the claimed subject matter. The Examiner required correction of a number of terms. By the present response, Applicant has amended the claims to clarify the same and to provide a more direct relationship between the terminology utilized in the claims and that of the specification. In this regard, Applicant respectfully notes that 37 CFR 1.75(d)(1) requires the terms and phrases used in the claims to find "clear support and antecedent basis" in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. In particular, there is no requirement that the exact and precise same terms that are used in the specification must be used in the claims.

In view of the above, Applicant respectfully notes that the common information recited in the claims can be considered to correspond to the entitlement control message (ECM) discussed in the specification. Regarding the recited "contract information" the Examiner's attention is directed to the Entitlement Management Message (EMM) in paragraph [0004].

Further, the extractor and decoder referenced by the Examiner have now been deleted from the claims. In this regard, the Examiner's attention is respectfully directed to paragraphs [0046] and [0048] of the corresponding published application (2007/0098165), which describe the secure device or module 102 and the descrambler 104 respectively, as well as their operational capabilities and functions. Regarding the various "search" related terms, the Examiner's attention is respectfully directed to paragraph [0054]. Further, regarding the terms "time decider" and "decider", these terms have now been deleted from the claims. Nevertheless,

regarding these terms, the Examiner's attention is respectfully directed to the description of the secure device as described at, *inter alia*, paragraph [0054] of the corresponding published application.

Accordingly, Applicant respectfully submits that he has overcome the asserted objection to the specification and respectfully requests reconsideration and withdrawal thereof.

In the outstanding official action, the Examiner rejected claims 35-43 under 35 USC 101, asserting that the claimed invention is directed to non-statutory subject matter. By the present response, Applicant has revised the language of the claims to ensure that they are properly drawn to a statutory category of invention. In particular, claim 35 is directed to a viewing control apparatus, which includes a reproduction/broadcasting apparatus, a secure device, and a descrambler. Accordingly, this claim is clearly directed to an apparatus. With regard to the Examiner's comments regarding "storage", this term has now been eliminated from the claim without acquiescing in the Examiner's assertion with respect thereto.

With respect to method claim 43, the language thereof has been revised to refer (i.e., "be tied") to a particular machine or apparatus, generally utilizing the same naming terminology as utilized in the apparatus claims.

Accordingly, particularly as herein amended, it is respectfully submitted that each of the claims in the present application is clearly directed to one of the statutory categories of invention. Accordingly reconsideration and withdrawal of the rejection of any of the pending claims under 35 USC 101 is respectfully requested.

In the outstanding official action, the Examiner rejected claims 35-43 under 35 USC 112, first paragraph as failing to comply with the written description requirement. In particular, the Examiner asserted that the claims recite subject matter, which is not described in the description

in such a way as to reasonably convey to one skilled in the relevant art that the inventor had possession of the claimed invention.

In particular, the Examiner asserted that the claims contain subject matter that was not described in the original specification such as a storage, an extractor and a decoder. As previously noted, by the present response, Applicant has amended the language of the claims to ensure that all of the claim recitations clearly and distinctly correspond to terminology utilized in the specification. Additionally, and as also noted above, those aspects of the present claimed invention previously associated with the extractor and decoder have now been attributed to the secure device and to the descrambler, both of which are clearly described in the original specification. In this regard, the Examiner's attention is respectfully directed to paragraph [0048] of the publication of the present application.

Accordingly, in view of the above, the Examiner is respectfully requested to reconsider and withdraw the outstanding rejection asserted against the claims of the present application under 35 USC 112, first paragraph.

In the outstanding official action, the Examiner additionally rejected claims 35-43 under 35 USC 112, second paragraph. The Examiner asserted that the claims are indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses the above noted rejection and submits that it is inappropriate.

Addressing the particular language issues raised by the Examiner, Applicant notes that claim 35 has been revised to clearly and unambiguously refer to a viewing control apparatus, while claim 43 clearly and unambiguously refers to a viewing control method. Further, the method of claim 43 is tied to apparatus, as noted above with respect to the 35 USC 101 rejection.

The other terms objected to by the Examiner in paragraph 25 have now been amended to clearly refer to the various recited components of the viewing control apparatus. Regarding paragraph 26 of the Examiner's action, the secure device and the descrambler are clearly apparatus, and accordingly the scope of the claim is commensurate with such recitations.

Regarding the language addressed in paragraph 27, Applicant respectfully submits that the scope of this language is clear. In particular, the contract information is recited as including identification information of the encrypted content and viewing condition update information, the viewing condition update information indicating a date which allows viewing of the encrypted content. Further, previously in the same paragraph of claim 35, the secure device is recited as searching identification information included in the contract information in the updated list, while the secure device is recited as being configured to update a list of contract information that is stored in the secure device. Accordingly, it is clear that claim 35 clearly and definitely recites that the secure device determines whether viewing is allowed, based on the date information included in the contract information.

With respect to the language of claims 37 and 40, as noted by the Examiner in paragraphs 28-30, by the present response, Applicant has amended the claims to clarify that the secure device decrypts the information by using the stored second key data. The other language enumerated by the Examiner with respect to these claims have also been revised to enhance clarity.

With respect to claim 43, it is respectfully submitted that the language identified by the Examiner is clear. In particular, the language essentially recites that a determination is made whether identification information in the contract information of the updated list is the same as identification information included in the acquired common information. With respect to the

Examiner's comment regarding "based on the date information", the Examiner's attention is respectfully directed to the explanation with respect to a similar comment by the Examiner in paragraph 27.

With respect to the Examiner's comments regarding the allegedly omitted step of retrieving or extracting date information, it is respectfully submitted that such step is implied by or inherent in the claim language and do not have to be explicitly or individually recited in order to comply with MPEP section 2172.01.

In the outstanding official action, the Examiner rejected claims 1-17 {sic 35-43} as being unpatentable over Ginter (U.S. Patent No. 5,892,900) in view of Coffin (U.S. Patent Application Publication No. 2003/0172376). Applicant respectfully traverses the above noted rejection and submits that it is inappropriate with respect to the combinations of features recited in each of Applicant's pending claims.

In particular, Applicant respectfully submits that the disclosures of the references relied upon to support the rejection, do not disclose, teach, suggest, or even render obvious the combination of features recited in each of Applicant's pending claims. Even if combined as proposed by the Examiner, it is respectfully submitted that the disclosures of the references relied upon are inadequate and insufficient to render unpatentable the claims pending in the present application. Further, there is no logical reason for the combination of the references in the manner suggested by the Examiner in the outstanding official action.

Applicant's claimed invention is directed to a viewing control apparatus as well as to a viewing control method. In particular, and utilizing the viewing control apparatus recited in claim 35 is a non-limiting example of particular features and aspects of the disclosed invention, the claimed invention is directed to a viewing control apparatus configured for securely

displaying contents. The viewing control apparatus includes a reproduction/broadcasting apparatus, a secure device, and a descrambler. The reproduction/broadcasting apparatus is configured to output, via broadcasting, communication or a recording medium, encrypted content that is encrypted by first key data, contract information that includes identification information of the encrypted content and viewing condition update information, the viewing condition update information indicating a date which allows viewing of the encrypted content, an advertisement that is associated with a contract information and timing information that includes the first key data and the identification information of the encrypted content. The secure device is configured, when the advertisement is reproduced, to store the contract information associated with the reproduced advertisement to update a list of contract information, the list of contract information being stored in the secure device and to acquire the common information, and upon acquiring the common information, to search the identification information included in the contract information in the updated list, for a same identification information as the identification information included in the acquired common information, to determine whether or not viewing of the content associated with the searched identification information is allowed, based on the date information included in the contract information including the searched identification information, and upon a determination that viewing is allowed, to extract the first key data from the acquired common information. The descrambler is configured to decrypt the encrypted content using the extracted first key data to output decrypted content.

In other words, according to the features of the invention as described in claim 35, a reproduction/broadcasting apparatus outputs encrypted data (that is encrypted by first key data), contract information (including identification information of the encrypted content and viewing condition information), an advertisement (associated with the contract information), and

common information (including the first key data and the identification information of the encrypted content).

A secure device, when the advertisement is reproduced, stores the contract information (an updated list of contract information) that is associated with the reproduced advertisement and, when the common information is acquired, determines whether or not viewing of the content, that is associated with the identification information included in the acquired common information is allowed, utilizing the stored contract information (the updated list of contract information) and the acquired common information, and extracts the first key data from the acquired common information, when it is determined that viewing of the content is allowed. A descrambler decrypts the encrypted content using the extracted first key data.

Accordingly, a claimed feature of Applicant's invention relates to the provision of a viewing control apparatus that performs viewing control by acquiring an advertisement together with content, and that allows a user to view the content on the condition that the user views the advertisement. This feature, in the claimed combinations provides an advantage in that it enables content viewing control such that a viewer, upon viewing an advertisement, is allowed or permitted to view content without cost. As a result, a user will certainly view the advertisement in order to be able to view the content free of charge. Furthermore, since an expiration date is set for the content that a user is permitted to view upon viewing the advertisement, the user has to view the latest advertisement in order to be able to view the content within the permitted timeframe (i.e. before the expiration date).

As a result, viewing of an advertisement is in accordance with the expectation and planning of the advertiser and the content producer, so that the producer can obtain an advertisement payment fee targeted at content previously produced. This of course has

significant advantages for the advertiser as well as for the content producer.

In setting forth the rejection, the Examiner asserted that the Ginter reference discloses a secure device and a descrambler as described above, with the exception of the secure device that stores the contract information associated with the reproduced advertisement when the advertisement is reproduced. The Examiner then asserts that Coffin discloses the above noted feature that is missing from Ginter. Accordingly, the Examiner rejects the pending claims based on the combination of references which, according to the Examiner improves marketing efficiency. Applicant respectfully submits that the Examiner's interpretation of the disclosures of the Ginter and Coffin references as well as of the claimed recitations are inappropriate and his combination of the references against the pending claims is improper.

In particular, Ginter and Coffin do not disclose at least updating of the contract information, which is explicitly recited in claim 35. In this regard, Applicant notes that the secure device, as recited in claim 35 is configured, when the advertisement is reproduced, to store the contract information associated with the reproduced advertisement to update a list of contract information.

As a result, even if Ginter and Coffin were combined as proposed by the Examiner the combination would still not disclose, teach or render obvious the combination of features recited in claim 35. Accordingly claim 35 is submitted to be patentable over the combination asserted thereagainst by the Examiner.

The various dependent claims pending in the present application are respectfully submitted to be patentable over the combination of references applied thereagainst at least based upon their dependence from a shown to be allowable base claim as well as based upon their additional recitations. In particular, and as an example, pending claims 37, 38 and 40 recite, inter

alia, second key data, third key data, and fourth key data. While the portions of Ginter cited and relied upon by the Examiner with respect to these claims disclose a plurality of keys, Ginter does not disclose the recited operational relationships between the various key data recited. Applicant's claims do not merely recite the presence or utilization of a plurality of keys but rather particular operational relationships between the various key data recited.

Accordingly, Applicant respectfully submits that all the claims pending in the present application are now clearly patentable over the combination of references asserted by the Examiner, and an action to such effect is respectfully requested in due course.

### **SUMMARY AND CONCLUSION**

Applicant has made a sincere effort to place the present application into condition for allowance and believe that he has now done so. Applicant has amended claim 35-43 to clarify the recitations thereof.

Applicant has discussed the disclosure of the references relied upon by the Examiner in the outstanding official action and has pointed out the shortcomings thereof. Applicant has additionally discussed, with reference to the explicit recitations of Applicant's claims, the deficiencies of the disclosure of the references relied upon by the Examiner in the outstanding official action. Accordingly, Applicant has provided a clear evidentiary basis supporting the patentability of all claims pending in the present application and respectfully requests an indication to such effect.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should an extension of time be necessary to maintain the pendency of this application, including any extensions of time required to place the application in condition for allowance by an Examiner's Amendment, the Commissioner is hereby authorized to charge any additional fee to Deposit Account No. 19-0089.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

**William Pieprz**  
**Reg. No. 33,630**

February 24, 2011  
GREENBLUM & BERNSTEIN, P.L.C.  
1950 Roland Clarke Place  
Reston, VA 20191  
(703) 716-1191

Respectfully Submitted,  
Masaaki YOSHIKAWA

Bruce H. Bernstein  
Reg. No. 29027